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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,872	08/09/2001	Lucile Wybouw-Cognard	450110-03508	3829
20999	7590	03/25/2004	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			TSAI, CAROL S W	
			ART UNIT	PAPER NUMBER
			2857	
DATE MAILED: 03/25/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/925,872

Applicant(s)

WYBOUW-COGNARD, LUCILE

Examiner

Carol S Tsai

Art Unit

2857

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: 6 and 7.Claim(s) rejected: 1-5 and 8-10.

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


MARC S. HOFFSUPERVISORY PATENT EXAMINER
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Continuation of 5. does NOT place the application in condition for allowance because:

Applicant's arguments filed 2/26/2004 have been fully considered but they are not persuasive.

Applicant argues that referring to Figure 1 of Ottensooser, the system under test 10 appears to be equivalent to Applicant's "application to be tested" and although it appears that the system of Ottensooser could be used with various "systems under test"; however, there is no disclosure of storing multiple "systems under test" and allowing selection between them. The Examiner disagrees with Applicant. Because "In the test scenario description file may also contain the path name of the script controlling the application, the format of the script file being defined by the run process. Furthermore, the description file may include a path name of the test output reference file, the output reference file defining what's the expected outputs of the scenario is and the format of the reference file being defined by the verify process" as described at page 18, lines 14-18 of applicant's Specification, clearly indicates that a test scenario generated for executing the test of software application is not a software application to be tested. In addition, in applicant claims, "a memory for storing at least one test scenario" was claimed rather than "a memory for storing at least one application to be tested". Therefore, it is not necessary for Ottensooser to provide disclosure of storing multiple "systems under test".

Applicant argue that for Ottensooser, a combination of the "system under test", one or more test scripts, and a test plan could be considered as some sort of test scenario, and that the test plan of Ottensooser could be considered as selecting how to run the system under test. However, with Applicant's invention, it is additionally possible to select how the application to be tested (the "system under test") is prepared and the application to be tested (the "system under test") is itself actually built by the test automation framework according to the selection. The Examiner disagrees with Applicant. As set forth in Final-Rejection mailed December 5, 2003, Ottensooser does not disclose expressly an input selection means for selecting one or more test scenarios and, for each selected test scenario, selecting how to prepare, run and verify a test application and a selection memory for storing the results of the input selection means, but it is considered inherent, because test scripts designed by a software programmer in either a Korn Shell or a C Shell format that include control flow statements, such as IF, ELSE, and ELSEIF, to provide general decision-making capabilities, are known to be very common, necessary, and required steps for a software programmer to code in order that the order in which computations or operations can be specifically selected for performing. In addition, "Having selected a particular test in step 54, the prepare process, the run process and the verify process are consecutively conducted for that selected test. Hence, a prepare means operates the prepare process in step 56 and produces the prepare log file 30, the run means operates the run process in the step 58 and produces the run log file 40 and the verify means operates the verify process in step 60 and produces the verify or result log file 50" described at page 11, lines 23-28 of applicant's specification clearly indicates that prepare process, the run process, and the verify process are consecutively conducted for the selected test. Additional, it is also a very common knowledge in the computer field that a software programmer designs a software to conduct either a unit test or an integrated test for a new developed software application always follows three sequential steps of: prepare process, such as generating one or more program for testing, run process, a process for executing program(s) after a program is generated, and verify process, a process followed the run process to check the status of executing. As depicted at Applicant's Fig. 3, since there are many tests are conducted, a programmer usually is required to include control flow statements, such as IF, ELSE, and ELSEIF, to provide general decision-making capabilities, in order that the order in which computations or operations can be specifically selected for performing.

Applicant argues that Ottensooser allows the test administrator to devise a test for the "system under test" on the basis of a test plan which itself may invoke one or more test scripts, whereas in contrast, the test scenarios of Applicant's invention each include an application to be tested (equivalent to the system under test of Ottensooser), together with at least one input and an expected output and Applicant's test automation framework allows not only a selection of tests to be performed on the application to be tested, but also allows the building (as well as running and verification) of the application to be tested to be controlled by input selection. The Examiner disagrees with Applicant. Ottensooser discloses a test for the "system under test" on the basis of a test plan invoking one or more test scripts covering the functionality of the system under test, together with one input and an expected output (see col. 2, lines 32-51 and col. 5, lines 7-10).

Applicant argue that as explained at the bottom on page 6 of the text of Applicant's specification, new code developed by a software developer will often be combined with other code to form the test application, for instance, new code may have a number of different uses in different applications, for example for different operating systems; whereas systems such as that described in Ottensooser still do not offer sufficient flexibility to take account of this because in Ottensooser-type systems test plans have to be devised for specific "systems under test". The Examiner disagrees with Applicant. "It is of course emphasized that the broad principles of the invention are in no way confined to any particular software system, but may be adapted for application to a wide variety of software applications" described at col. 5, lines 3-6, Ottensooser clearly indicates that his invention is in no way confined to any particular software system.

Applicant argues that according to Ottensooser, it may be possible to select (by means of a test plan) various test scripts; However, there appears to be no teaching of selecting different "systems under test" and although Ottensooser includes a "system under test" together with test scripts and a test plan, there is no contemplation of providing a plurality of test scenarios, each with independent respective applications to be tested, inputs and outputs. The Examiner disagrees with Applicant, since "It is of course emphasized that the broad principles of the invention are in no way confined to any particular software system, but may be adapted for application to a wide variety of software applications" described at col. 5, lines 3-6, Ottensooser clearly indicates that his invention may be adapted for application to a wide variety of software applications..